

Anthony A. DeGenes  
300 Van Wyck Avenue  
Pittsburgh, PA 15227

February 21, 2012

In re: Right to Know Appeal

Dear Mr. DeGenes:

I am the Open Records Appeal Officer for the District Attorney of Allegheny County. On February 21, 2012 I received a letter from you appealing the decision of Ms. Dawn A. Botsford, Right To Know Officer for the Allegheny County District Attorney's Office, not to release information which you had requested in a letter dated February 4, 2012. Specifically, you stated: "I want to know whether I was ever investigated or whether I'm still being investigated or under surveillance, monitored or whether there is any activity being directed against me."

In denying your request, the Open Records Officer, Ms. Botsford asserted that the records you seek are exempt from production pursuant to 65 P.S. §708(b)(16). As you know, that provision exempts "[a] record of an agency relating to or resulting in a criminal investigation[.]" The only exceptions specified in 65 P.S. §67.708(b)(16) involve "information contained in a police blotter as defined in 18 Pa. C.S. §9102" or "in a traffic report except as provided under 75 Pa. C.S. §3754(b)[.]"

Based on the exception for criminal investigative material, I must deny your appeal pursuant to 65 P.S. §67.708(b)(16). The provision as written, does not make allowance for completed or closed investigations. Please be advised that you have 30 days to appeal this decision to the Court of Common Pleas. See 65 P.S. §67.1302.

Very Truly Yours,

Michael W. Streily  
Deputy District Attorney

cc: Dawn A. Botsford, Open Records Officer